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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON AT TACOMA
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9 SANDI WILSON and SYNTHIA LISI,
10 individually and on behalf of all others
11 similarly situated,

12 Plaintiffs,

13 v.

14 VENTURE FINANCIAL GROUP, INC.,
15 et al.,

16 Defendants.

17 CASE NO. C09-5768BHS

18 ORDER DENYING MOTION
19 FOR RECONSIDERATION

20 This matter comes before the Court on Ken F. Parsons, Sr.'s ("Parsons") motion
21 for reconsideration (Dkt. 133) of the Court's prior order approving settlement (Dkt. 131).
22 The Court has considered the pleadings filed in support of and in opposition to the motion
23 and the remainder of the file and hereby denies the motion for the reasons stated herein.
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25 **I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

26 This is an ERISA class action case in which the Court previously approved a final
27 settlement and plan of allocation. Dkt. 131 (final order and judgment). On May 4, 2011,
28 non-settling Defendant Parsons moved the Court to reconsider its final order and
judgment. Dkt. 133. The Court ordered the Settling Parties¹ to respond to the motion and

27 ¹The Settling Parties include those persons in the class of Settling Plaintiffs and those
28 persons making up the group of Settling Defendants, neither of which include Parsons.

1 permitted Parsons to file a reply. The Settling Parties timely responded (Dkt. 136) and
2 Parsons replied (Dkt. 139).

3 For a more detailed factual background of the case see the Court's final order and
4 judgment (Dkt. 131) and its order granting Parsons' former counsel's motion to withdraw
5 from representation. Dkt. 115. Additionally, on April 25, 2011, the Court heard oral
6 argument about the same issues presented by Parsons in the instant motion, which he
7 addressed with the Court during the fairness hearing in which it approved the proposed
8 final plan for settlement and allocation.

9 The parties dispute whether or not Parsons is entitled to object to the settlement.
10 Parsons contends that he has a "contractual right and expectation to participate in the
11 Plans." Dkt. 133 at 3. It is undisputed that Parsons was a shareholder/participant in the
12 original plans. The management of these plans gave rise to this litigation. It is also
13 undisputed that the Settling Plaintiffs in this litigation will receive a distribution of funds
14 under the terms of the settlement. Parsons, however, is not a Plaintiff in this action;
15 Parsons was a named Defendant, and the terms of settlement, as agreed by the Settling
16 Parties, releases Parsons of liability for any claims that Plaintiffs may have had against
17 him in this litigation.

18 During the fairness hearing, counsel for the Settling Defendants asserted to the
19 Court that they were creating a new plan for the tax purposes that would permit the
20 Settling Plaintiffs to roll their money over into a new retirement plan and avoid taxes that
21 would result from taking a distribution directly from the settlement. The Settling Plaintiffs
22 concurred that this was the situation. However, Parsons argued that the Settling
23 Defendants were actually resuscitating or reviving the original plan, a plan that he had an
24 interest in as a shareholder and participant. During the fairness hearing, the Court agreed
25 with the Settling Parties that Parsons did not have a stake in the "new" plan.

1 Parsons moves the Court to reconsider this issue, which would provide him with
2 standing to object to the settlement because, he argues, permitting the settlement to go
3 forward strips him of his interest in the plan and any allocation of settlement.

4 In opposition, the Settling Parties contend that Parsons is not a part of the
5 settlement, specifically he is not part of the class of Settling Plaintiffs, and is therefore not
6 entitled to any of the proceeds that flow from the settlement. The Settling Parties contend
7 that their position holds true whether the plan is considered resuscitated, revived, or new.

8 II. DISCUSSION

9 A. Standard

10 Motions for reconsideration are governed by the Court's local rules, which
11 provide in pertinent part as follows:

12 Motions for reconsideration are disfavored. The court will ordinarily deny
13 such motions in the absence of a showing of manifest error in the prior ruling
14 or a showing of new facts or legal authority which could not have been
brought to its attention earlier with reasonable diligence.

15 Local Rule CR 7(h)(3).

16 B. Parsons' Motion

17 Parsons' motion for reconsideration does not contain any showing of new facts or
18 evidence that would alter the outcome of the Court's prior order. Parsons' motion does
19 not contain adequate legal authority for his position. Instead he appeals to logic that if the
20 plans were revived, then he has a revived interest in its assets because he was previously a
21 participant in the original plans.

22 If the Court found that the plans were revived rather than new plans created
23 specifically for settlement, it might be inclined to agree with Parsons that he has standing
24 to challenge the settlement.² However, whether or not the plans are considered revived or

26 ²Notably, the Court previously ruled that Parsons did not have standing in this matter.
27 Dkt. 116 at 2-3 ("Parsons lacks standing because he is a non-settling Defendant and because he
28 has not shown that he would suffer a legal prejudice should the Court grant preliminary approval
of the Settlement"). Parsons did not move the Court to reconsider this ruling. This alone provides

1 new is not dispositive to the more fundamental question of whether Parsons has a right to
2 challenge the settlement in the first place.

3 Parsons is not a part of the settlement. Parsons is a Defendant for whom the
4 Settling Plaintiffs have released any claim that they may have had against him for his
5 involvement with the plans that led to this litigation. The Settling Defendants and the
6 Settling Plaintiffs have agreed to terms of settlement, which includes an allocation of
7 money to the Settling Plaintiffs. This money comes from insurance proceeds which are
8 not depleted. *See, e.g.*, Dkt. 131. To the extent Parsons has a claim against anyone
9 regarding these plans, he is still free to bring such a claim in a separate action. However,
10 as the Court previously stated, Parsons has not provided any authority for the proposition
11 that he can sue himself in this action and join in the settlement in an effort to obtain a
12 portion of the settlement proceeds: Parsons was a named Defendant not a named Plaintiff
13 in this action.

14 In short, it makes no difference whether Parsons has standing or not to challenge
15 the settlement because even if he did, he is not entitled to settlement proceeds from a
16 settlement in which he is not a party.

17 **III. ORDER**

18 Therefore, it is hereby **ORDERED** that Parsons' motion for reconsideration (Dkt.
19 133) is **DENIED**.

20 DATED this 13th day of June, 2011.

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27 BENJAMIN H. SETTLE
28 United States District Judge

27 a basis to deny Parsons' instant motion because the time period in which to challenge the Court's
28 original ruling on standing has long passed.